



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 511

IN THE MATTER
OF
JOANNE KOVAL

DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and Joanne Koval ("Koval") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court pursuant to G.L. c. 268B, §4(j). On October 19, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law by Koval. The Commission concluded that inquiry, and on September 13, 1994, found reasonable cause to believe that Koval violated G.L. c. 268A, §23(b)(3).

The Commission and Koval now agree to the following findings of fact and conclusions of law:

1. From April 1991 until April 1994, Koval served on the Board of Selectmen in the Town of Holbrook. As such, she was a municipal employee within the meaning of G.L. c. 268A, §1 of the conflict of interest law.
2. The Board serves as the licensing authority in Holbrook. As such, it regulates alcohol establishments through its power to issue, suspend and terminate alcohol, amusement and pool table licenses.
3. The Union Street Pub is an alcohol establishment in Holbrook, located at 70-73 Union Street. In 1990, Union Street Inc. took over the operation of the Pub and applied for the transfer of the Pub's existing licenses. These licenses included a liquor license, a pool table license and an amusement license for video games. The Board of Selectmen approved the transfer of the liquor and amusement licenses to Union Street Inc. Steve Faber holds the controlling interest in Union Street Inc. The Board declined to approve the transfer of the pool table license, and conditioned their future approval of such a transfer on Faber's performing extensive renovations to the Pub. At the time of the transfer approvals, Koval was not a member of the Board of Selectmen.
4. Union Street Inc.'s licenses are subject to annual renewal by the Board of Selectmen.
5. On behalf of Union Street Inc., Faber appeared before the Board of Selectmen in March 1991 to secure approval of the transfer of the pool table license. At this time, Koval was a candidate for a position on the Board of Selectmen in an upcoming election, and opposed the issuance of the license. The Board of Selectmen voted 4 to 1 in favor of the license application.
6. Koval was elected to the Board of Selectmen in April 1991. On December 16, 1991, the Board of Selectmen renewed the Union Street Pub's alcohol and amusement licenses. Koval was present for the meeting and voted for the renewals.
7. In 1992, Koval became a candidate for the state senate seat encompassing the Town of Holbrook. Her opponent in the primary election was Michael Morrissey. In September 1992, before the primary election, the Union Street Pub displayed two campaign signs for Michael Morrissey on the exterior of its premises.
8. One evening in September, Koval entered the Pub and introduced herself to the bartender as a candidate for state senate and as a Holbrook selectwoman. Koval asked the bartender if she had done anything to offend

the bar to cause the owners to put up the Morrissey signs. Koval stated she had been helpful as a selectwoman to the Pub in its receipt of its pool table license. Koval then demanded that the bartender take down the signs.

9. The bartender telephoned Faber and related Koval's demand. Faber instructed the bartender to remove the signs. She did so.

10. Faber feared retaliation from Koval if he did not remove the signs.

11. General Laws c. 268A, §23(b)(3) prohibits a municipal employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy her favor in the performance of her official duties.

12. By introducing herself as a selectwoman, and noting that as such she had been helpful to the bar in the past, and by then demanding that the Union Street Pub remove campaign signs promoting her political opponent, Koval implicitly threatened a party she regulated in her official capacity as a selectwoman. This conduct would cause a reasonable person knowing these facts to conclude that Koval could base her future vote on Union Street Pub license renewals, not on the Pub's record of complying with alcohol laws and regulations, but on its level of campaign support. Such votes would be based on improper influence and undue favor. Therefore, Koval violated G.L. c. 268A, §23(b)(3).

In view of the foregoing violation of G.L. c. 268A, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Koval:

(1) that Koval pay to the Commission the sum of two hundred and fifty dollars (\$250.00) as a civil penalty for the violations of G.L. c. 268A, §23(b)(3);

(2) that Koval waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceeding to which the Commission is or may be a party.

DATE: December 15, 1994